

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRY HARRIS, <u>et al.</u> ,	:	CIVIL NO. 1:CV-06-0718
Plaintiffs,	:	
	:	(Judge Kane)
v.	:	
	:	
DEBORAH A. HANKEY, <u>et al.</u> ,	:	
Defendants	:	

MEMORANDUM and ORDER

I. Background

Terry Harris, an inmate presently confined at the State Correctional Institution at Mahanoy (“SCI-Mahanoy”), Frackville, Pennsylvania, filed this pro se civil rights action pursuant to 42 U.S.C. § 1983. Also listed as Plaintiffs are the following inmates at the Adams County Adult Correctional Complex (“ACACC”), Pennsylvania: Samuel Cruz, Wesley A. Jackson, Paris Parker, Clarence Reid, Irving Fernandez, Edwin Fernandez, Woodrow Kenner, Joseph Herman, and Jessie Shindle Decker. Along with the complaint, Harris submitted a motion requesting leave to proceed in forma pauperis in this case (Doc. 2), a motion for appointment of counsel (Doc. 4), and a motion for certification of class action (Doc. 5). The complaint sets forth claims of inadequate research facilities at ACACC, resulting in the denial of access to the courts by the inmates at that institution. On May 3, 2006, Harris filed a document entitled “Order to Show Cause and Temporary Restraining Order” (Doc. 13), which will be construed by the Court as a motion for temporary restraining order.

Harris is the only Plaintiff that signed the complaint filed in this matter. As such, the additional Plaintiffs will be stricken for failure to comply with Fed. R. Civ. P. 11(a). Further, the complaint will be dismissed, without prejudice, pursuant to 28 U.S.C. § 1915(g), and all pending motions will be denied as moot.

II. Discussion

28 U.S.C. § 1915(g) bars a federal civil action by a prisoner proceeding in forma pauperis if he or she has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States, that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Harris has filed no less than four (4) civil actions in this Court since 1996. All of these actions were dismissed on grounds that they were frivolous or failed to state a claim upon which relief may be granted. See Harris v. Merwede, Civil No. 3:96-CV-1820 (M.D. Pa. Nov. 26, 1996) (Vanaskie, J.)(frivolous); Harris v. Kuhn, Civil No. 3:98-CV-0888 (M.D. Pa. Dec. 14, 1998) (Kane, J.) (frivolous); Harris v. Duran, Civil No. 1:98-CV-1908 (M.D. Pa. Mar. 24, 2000) (Kane, J.) (failure to state a claim); Harris v. Duran, Civil No. 1:03-CV-1051 (M.D. Pa. Aug. 19, 2004) (Conner, J.)(frivolous).

There is no indication in the complaint that Harris is in any danger of imminent serious physical injury. To the contrary, the allegations relate to the inadequacy of research materials and the lack of legal assistance at ACACC. In addition, Harris is not confined at ACACC and has no apparent connection with said facility. The complaint lacks any averments of threat of physical danger and, accordingly, is subject to dismissal under § 1915(g). An appropriate Order follows.

III. Order

AND NOW, this 15th day of June, 2006, in accordance with the foregoing Memorandum, **IT IS HEREBY ORDERED THAT:**

1. The Administrative Order issued in this case on April 7, 2006 (Doc. 8) is **VACATED**. Plaintiff's motion for leave to proceed in forma pauperis is **DENIED**.
2. The complaint (Doc. 1) is **DISMISSED**, without prejudice, pursuant to the provisions of 28 U.S.C. § 1915(g).
3. Plaintiff's pending motions for appointment of counsel (Doc. 4), certification of class action (Doc. 5) and temporary restraining order (Doc. 13) are **DENIED** as moot.
4. The Clerk of Court is directed to **CLOSE** this case.
5. Any appeal taken from this Order will be deemed frivolous, without probable cause, and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

S/ Yvette Kane
YVETTE KANE
United States District Judge